



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/743,348  | 12/23/2003  | Samir Raiyani        | 13909-138001 /<br>2003P00442    | 4705                        |
| 32864 7590 03/26/2009<br>FISH & RICHARDSON, P.C.<br>PO BOX 1022<br>MINNEAPOLIS, MN 55440-1022 |             |                      | EXAMINER<br>ZURITA, JAMES H     |                             |
|   |             |                      | ART UNIT<br>3625                | PAPER NUMBER                |
|   |             |                      | NOTIFICATION DATE<br>03/26/2009 | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/743,348 | <b>Applicant(s)</b><br>RAIYANI ET AL. |  |
|                              | <b>Examiner</b><br>JAMES ZURITA      | <b>Art Unit</b><br>3625               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14 and 48-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 48-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/10/2009 has been entered.

### ***Response to Amendment***

ON 02/10/2009, applicant amended claim 14 and added claims 48-67.

Claims 14, 48-67 are pending and will be examined.

### ***Claim Objections***

Claim 48 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

In claim 48, as in claim 14, the action of "...analyzing linger time of an RFID-enabled shopping cart of the customer or the other customer in the area where the second product was sold..." does not further limit claim 14, "... analyzing a linger time of the customer or the other customer in an area where the second product was sold..."

Art Unit: 3625

since "...of an RFID-enabled shopping cart..." refers to actions that are implied, not positively stated and occur outside the metes and bounds of the claim. Further, the limitation "...of an RFID-enabled shopping cart..." is not an active part of the claim.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14, 48-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

claim 14, 54 and 61 refer to "...based on analyzing a linger time of the customer or the other customer in an area where the second product was sold..." However, there is no written description of "...based on analyzing a linger time of the customer or the other customer in an area where the second product was sold..." since the disclosures refer to linger time of a single customer:

[0440] The server system 3514 may then use this received input from the RFID gateway to 3830 track the movement of customers 4302 through the store 4300. For example, the server system 3514 may discern a bottleneck of RFID-enabled shopping carts 4306 and alert store workers 3510 to open a new checkout line. The server system 3514 also may record customer "linger"

by shelves or products through tracking the RFID-enabled shopping carts 4306. The recorded customer "linger time" may then be later analyzed for a correlation between "linger time" and sales of the corresponding product. The server system 3514 may be

Art Unit: 3625

used, for example, to provide visualization information of RFID-enabled cart 4304 movement patterns, sales flow of goods (i.e., what sells when), and groups of goods purchased.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14, 48-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14, 48-67 contain the term **or**: "...the customer **OR** by an other customer..." The term renders the claims indefinite, since it is not possible to determine the scope of the claim as requiring both items or only one of the items separated by the or. For purposes of this examination, examiner will give the term its broadest reasonable interpretation and consider that the particular condition is satisfied if one of the limitations is met.

### ***Response to Arguments***

Applicant's arguments filed 02/10/2009 have been fully considered but they are not persuasive.

Arguments concerning cancelled claims are moot in view of their cancellation.

Applicant argues,

The independent claims have each been amended to recite the feature of "correlating the first product with a second product previously purchased by the customer or by an other customer who also purchased the first product, based on analyzing a linger time of the customer or the other customer in an area where the second product was sold."

The Applicants submit that Jelen does not disclose or suggest these new features.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Claims 14, 54 and 61 refer to actions that are implied, not positively stated and take place outside the metes and bounds of the claims. As such, the limitation carries little to no patentable weight:

...previously purchased by the customer or by an other customer who also purchased the first product, based on analyzing a linger time of the customer or the other customer in an area where the second product was sold...

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 14, 48, 49, 51, 54, 55, 56, 58, 61, 62, 63 and 65, as interpreted, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen (US 6,129,276) in view of Giannini et al. (US 7062454).

As per claim 14, Jelen discloses computer-implemented method(s) comprising:  
outputting a first page for display on a portable device, the first page including a first field for receiving a product identifier of a first product identified by a customer; see, for example, at least Fig. 14 and related text, Fig. 13, ref. 430.

receiving the product identifier; see, for example, Fig. 13 and related text.

correlating the first product with a second product previously purchased by the customer or by an other customer who also purchased the first product; see, for example, references to previously purchased products, as in Abstract.

outputting a second page for display on the electronic device, the second page displaying information identifying the second product. See, for example, Jelen, Col. 4, lines 37-50.

Jelen does not specifically disclose that correlating the first product previously purchased by the customer or by an other customer who also purchased the first product is based on analyzing a linger time of the customer or the other customer in an area where the second product was sold. This feature is disclosed by Giannini et al., (US 7,062,454) as in col. 1, lines 40-55.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Jelen to have included that correlating the first product previously purchased by the customer or by an other customer who also purchased the first product is based on analyzing a linger time of the customer or the other customer in an area where the second product was sold as taught by Giannini because the incorporation of such features is no more than the predictable use of prior art elements according to their established function and Combining prior art elements according to known methods yield predictable results.

As per claim 48, Jelen discloses analyzing linger time of an RFID-enabled shopping cart of the customer or the other customer in the area where the second product was sold. See, for example, Fig. 1 and related text.

As per claim 49, Jelen discloses that the product identifier is received using a different modality (touch screen input, Fig. 17, keyboard) than is used to output the information identifying the second product (display output, Fig. 17, browser).

As per claim 51, Jelen discloses that the first product is correlated with the second product further based on a sales promotion of the second product. See, for example, references to sale, as in Fig. 1, which shows different products.

Claim 54 is rejected on the same grounds as claim 14.

Claim 55 is rejected on the same grounds as claim 48.

Claim 56 is rejected on the same grounds as claim 49.

Claim 58 is rejected on the same grounds as claim 51.

Claim 61 is rejected on the same grounds as claim 14.

Claim 62 is rejected on the same grounds as claim 48.

Claim 63 is rejected on the same grounds as claim 49.

Claim 65 is rejected on the same grounds as claim 51.

Claims 50, 53, 57, 60, 64 and 67 are rejected under 35 USC 103(a) as being unpatentable over Jelen in view of Glannini and further in view of Reade et al. US 2004/0103034,

As per claim 50, Jelen and Giannini do not specifically disclose determining a route between the first product and the second product; and outputting information describing the route. This is disclosed by Reade et al., US 2004/0103034, para 0019, for example.



As per claim 53, Jelen and Giannini do not specifically disclose receiving spoken information describing the first product. This is disclosed by Reade, as in para 0015, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Jelen, Giannini and Reade to disclose

determining a route between the first product and the second product; and  
outputting information describing the route (claim 50).  
receiving spoken information describing the first product. (claim 53).

because the incorporation of such features is no more than the predictable use of prior art elements according to their established function, and it was old and well known to combine prior art elements according to known methods to yield predictable results.

Claim 57 is rejected on the same grounds as claim 50.

Claim 60 is rejected on the same grounds as claim 53.

Claim 64 is rejected on the same grounds as claim 50.

Claim 67 is rejected on the same grounds as claim 53.

Claim 52, 59 and 66 are rejected under 35 USC 103(a) as unpatentable over Jelen in view of Glannini and further in view of Official Notice.

As per claim 52, Jelen does not specifically disclose that the first product is correlated with the second product further based on excess inventory of the second product. Official notice is taken that is was old and well known at the time of applicant's invention to correlate first products with second product further based on excess inventory of the second product. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Jelen to disclose that the first product is correlated with the second product further based on excess inventory of the

Art Unit: 3625

second product because the incorporation of such features is no more than the predictable use of prior art elements according to their established function, and it was old and well known to combine prior art elements according to known methods to yield predictable results.

Claim 59 is rejected on the same grounds as claim 52.

Claim 66 is rejected on the same grounds as claim 52.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/  
Primary Examiner  
Art Unit 3625  
15 March 2009